

## **REMARKS**

Claims 1, 6, 12, 17, 22, 24 and 29 have been amended. Claim 11 has been cancelled. Claim 34 has been added. Following entry of the above Amendment, claims 1-34 are pending.

Claims 1, 2, 5, 12 13, 16, 24, 25 and 28 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Fitch et al. (U.S. Pat. No. 6,321,092; herein after referred to as “Fitch ‘092”). Claims 3, 14 and 26 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Fitch ‘092 in view of Wang (U.S. Patent App. No. 2002/016075). Claims 4, 15 and 27 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Fitch ‘092 in view of Wang and further in view of well established teaching in the art. Claims 6, 7, 10, 17, 18, 21, 29, 30 and 33 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Fitch ‘092 in view of Morse et al. (U.S. Patent. No. 6,069,004; herein after referred to as “Morse”). Claims 8, 19 and 31 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Fitch ‘092 in view of Morse and further in view of Wang. Claims 9, 20 and 32 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Fitch ‘092 in view of Morse and Wang and further in view of well-established teaching in the art. Claim 11, now cancelled, stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Fitch ‘092 in view of Rachabathuni et al. (U.S. Patent No. 6,628,938; herein after referred to as “Rachabathuni”). Claim 22 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Fitch et al. (U.S. Patent No. 6,424,840; herein after referred to as “Fitch ‘840”) in view of Fitch ‘092.

### **Rejections Based Upon 35 U.S.C. §102(e)**

Independent claims 1, 12 and 24 have been amended to further clarify elements that Applicant believes to be patentable subject matter. With respect to amended, independent claims 1, 12 and 24 and dependent claims 2, 5, 13, 16, 25 and 28, Fitch ‘092 does not teach or suggest multiple locations corresponding to multiple devices wherein each device corresponds to a device. Thus, Fitch cannot teach or suggest the calculation of the user’s location based upon location information associated with multiple devices. Rather, Fitch ‘092 describes a system in which coordinates, associated with a single device but generated by multiple sources, are resolved to calculate a location associated with the single device. This is analogous to

triangulating the position of a cell phone from location data received from a number of cell phone towers. Applicant's claimed subject matter is clearly different. Applicant's claimed subject matter enables the location of the user to be ascertained from location data that may be contradictory, i.e. one device indicates a first location and a second device indicates a second location. Fitch '092 does not teach or suggest Applicant's claimed subject matter directed at resolving a user's location from conflicting location data corresponding to multiple devices

### **Rejections Based Upon 35 U.S.C. §103(a)**

Independent claim 22 has been amended to clarify elements that Applicant believes to be patentable subject matter. With respect to amended, independent claim 22, neither Rachabathuni nor Fitch '840 provides that which Fitch '092 lacks, i.e. location information corresponding to at least one additional user device corresponding to a single user. In fact, Rachabathuni, Fitch '092 and Fitch '840 all suggest multiple coordinates for a single device within a particular system (see FIG. 1 of Fitch '092 and Fitch '840 and FIGs. 1 and 2 of Rachabathuni).

With respect to dependent claims 6, 7, 10, 17, 18, 21, 23, 29, 30 and 33, Morse does not suggest multiple locations corresponding to multiple devices but rather suggests multiple locations corresponding to a single moving device (see Fig. 2 of Morse).

With respect to claims 3, 4, 14, 15, 19, 20, 26, 27, 31 and 32, Wang is directed at a system that enables multiple devices of differing types to receive a common message (see FIG. 10 of Wang). Wang is directed to "location-aware" devices rather than employing devices to determine a user's position. In other words, Wang does not teach or suggest a method of system for calculating a user's location based upon the location of different devices.

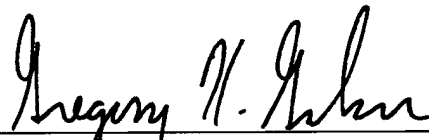
### **CONCLUSION**

In order to reject a claimed invention under §102(e), the cited reference must teach every aspect of the claimed invention either explicitly or impliedly. (M.P.E.P. §706.02). To establish *prima facie* obviousness of a claimed invention under §103(a), all the claim limitations must be taught or suggested by the prior art. (M.P.E.P., §2143.03, citing *in re Royka*, 490 F.2d 981; 180 U.S.P.Q. 580 (CCPA 1974)). In addition, "**All words in a claim must be considered** in judging the patentability of that claim against prior art." (*Id.*, citing *In re Wilson*, 424 F.2d 1382, 1385; 165 U.S.P.Q. 494, 496 (CCPA 1970); *emphasis added*).

Independent claims 1, 12, 22, 24 and 34 are allowable for the reasons stated above. Each of dependant claims 2-10, 13-21 and 23-33 are allowable at least for the fact that they depend upon one of the allowable independent claims. It is respectfully submitted that all issues and rejections have been adequately addressed and that pending claims 1-34 are allowable and that the case should be advanced to issuance. If the Examiner has any questions or wishes to discuss the claims, the Examiner is encouraged to call the undersigned at the telephone number indicated below.

It is believed that no fees are due with the filing of this Response. However, should any fees are due, the Commissioner is hereby authorized to charge such fees to the deposit account of Fortkort Grether + Kelton, LLP, Deposit Account No. 50-27276.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gregory K. Goshorn", is written over a horizontal line.

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